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असाधारण

EXTRAORDINARY

भाग II—खण्ड—2

PART II—Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह भलग संकलन के रूप में रखा जा सके ।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 29th May, 1967:—

BILL NO. V OF 1967

A Bill to provide for the issue of passports and travel documents, to regulate the departure from India of citizens of India and other persons and for matters incidental or ancillary thereto.

Be it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Passports Act, 1967.
- (2) It extends to the whole of India and applies also to citizens of India who are outside India.

Short
title and
extent.

2. In this Act, unless the context otherwise requires,—

Definitions

- (a) “departure”, with its grammatical variations and cognate expressions, means departure from India by water, land or air;
- (b) “passport” means a passport issued or deemed to have been issued under this Act;
- (c) “passport authority” means an officer or authority empowered under rules made under this Act to issue passports or travel documents and includes the Central Government;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "travel document" means a travel document issued or deemed to have been issued under this Act.

Passport
or travel
document
for depart-
ure from
India.

3. No person shall depart from, or attempt to depart from, India unless he holds in this behalf a valid passport or travel document.

Explanation.—For the purposes of this section,—

(a) "passport" includes a passport which having been issued by or under the authority of the Government of a foreign country satisfies the conditions prescribed under the Passport (Entry into India) Act, 1920, in respect of the class of passports to which it belongs;

34 of 1920

(b) "travel document" includes a travel document which having been issued by or under the authority of the Government of a foreign country satisfies the conditions prescribed.

Classes of
passports
and
travel
documents.

4. (1) The following classes of passports may be issued under this Act, namely:—

- (a) ordinary passport;
- (b) official passport;
- (c) diplomatic passport.

(2) The following classes of travel documents may be issued under this Act, namely:—

- (a) emergency certificate authorising a person to enter India;
- (b) certificate of identity for the purpose of establishing the identity of a person;
- (c) such other certificate or document as may be prescribed.

(3) The Central Government shall, in consonance with the usage and practice followed by it in this behalf, prescribe the classes of persons to whom the classes of passports and travel documents referred to respectively in sub-section (1) and sub-section (2) may be issued under this Act.

5. (1) An application for the issue of a passport or travel document under this Act, or for an endorsement on such passport or travel document, for visiting such foreign country or countries as may be specified in the application may be made to the passport authority and shall be in such form, contain such particulars and be accompanied by such fee (if any) not exceeding rupees twenty-five as may be prescribed.

Applica-
tions for
passports
travel do-
cuments
etc., and
orders
thereon.

(2) On receipt of an application, the passport authority, after making such inquiry, if any, as it may consider necessary, shall, subject to the other provisions of this Act, by order in writing,—

(a) issue the passport or travel document with endorsement, or, as the case may be, make on the passport or travel document the endorsement, in respect of the foreign country or countries specified in the application; or

(b) issue the passport or travel document with endorsement, or, as the case may be, make on the passport or travel document the endorsement, in respect of one or more of the foreign countries specified in the application and refuse to make an endorsement in respect of the other country or countries; or

(c) refuse to issue the passport or travel document or, as the case may be, refuse to make on the passport or travel document any endorsement.

(3) Where the passport authority makes an order under clause (b) or clause (c) of sub-section (2) on the application of any person, it shall record in writing a brief statement of its reasons for making such order and furnish to that person on demand a copy of the same unless in any case the passport authority is of the opinion that it will not be in the interests of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign country or in the interests of the general public to furnish such copy.

6. (1) Subject to the other provisions of this Act, the passport authority shall refuse to make an endorsement for visiting any foreign country under clause (b) or clause (c) of sub-section (2) of section 5 on any one or more of the following grounds, and on no other ground, namely:—

Refusal of
passports,
travel
documents,
etc.

(a) that the applicant may, or is likely to, engage in such country in activities prejudicial to the sovereignty and integrity of India;

(b) that the presence of the applicant in such country may, or is likely to, be detrimental to the security of India:

(c) that the presence of the applicant in such country may, or is likely to, prejudice the friendly relations of India with that or any other country;

(d) that in the opinion of the Central Government the presence of the applicant in such country is not in the public interest.

(2) Subject to the other provisions of this Act, the passport authority shall refuse to issue a passport or travel document for visiting any foreign country under clause (c) of sub-section (2) of section 5 on any one or more of the following grounds, and on no other ground namely:—

(a) that the applicant is not a citizen of India;

(b) that the applicant may, or is likely to, engage outside India in activities prejudicial to the sovereignty and integrity of India;

(c) that the departure of the applicant from India may, or is likely to, be detrimental to the security of India;

(d) that the presence of the applicant outside India may, or is likely to, prejudice the friendly relations of India with any foreign country;

(e) that the applicant has, at any time during the period of five years immediately preceding the date of his application, been convicted by a court in India for any offence and sentenced to imprisonment for not less than two years;

(f) the proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India;

(g) that a warrant or summons for the appearance, or a warrant for the arrest, of the applicant has been issued by a court under any law for the time being in force or that an order prohibiting the departure from India of the applicant has been made by any such court;

(h) that the applicant has been repatriated and has not reimbursed the expenditure incurred in connection with such repatriation;

(i) that in the opinion of the Central Government the issue of a passport to the applicant will not be in the public interest.

Duration
of
passports
and travel
documents.

7. A passport or travel document shall, unless revoked earlier, continue in force for such period as may be prescribed and different periods may be prescribed for different classes of passports or travel documents or for different categories of passports or travel documents under each such class:

Provided that a passport or travel document may be issued for a shorter period than the prescribed period—

(a) if the person by whom it is required so desires; or

(b) if the passport authority, for reasons to be communicated in writing to the applicant, considers in any case that the passport or travel document should be issued for a shorter period.

8. Every passport shall, unless the passport authority for reasons to be recorded in writing otherwise determines in any case, be renewable for the same period for which the passport was originally issued and the provisions of this Act (including the provisions as to fees) shall apply to the renewal of a passport as they apply to the issue thereof. Renewal of passports.

9. The conditions subject to which, and the form in which, a passport or travel document shall be issued or renewed shall be such as may be prescribed: Conditions and forms of passports and travel documents.

Provided that different conditions and different forms may be prescribed for different classes of passports or travel documents or for different categories of passports or travel documents under each such class:

Provided further that a passport or travel document may contain in addition to the prescribed conditions such other conditions as the passport authority may, with the previous approval of the Central Government, impose in any particular case.

10. (1) The passport authority may, having regard to the provisions of sub-section (1) of section 6 or any notification under section 19, vary or cancel the endorsements on a passport or travel document or may, with the previous approval of the Central Government, vary or cancel the conditions (other than the prescribed conditions) subject to which a passport or travel document has been issued and may, for that purpose, require the holder of a passport or a travel document, by notice in writing, to deliver up the passport or travel document to it within such time as may be specified in the notice and the holder shall comply with such notice. Variation, impounding and revocation of passports and travel documents.

(2) The passport authority may, on the application of the holder of a passport or a travel document, and with the previous approval of the Central Government also vary or cancel the conditions (other than the prescribed conditions) of the passport or travel document.

(3) The passport authority may impound or cause to be impounded or revoke a passport or travel document,—

(a) if the passport authority is satisfied that the holder of the passport or travel document is in wrongful possession thereof;

(b) if the passport or travel document was obtained by the suppression of material information or on the basis of wrong information provided by the holder of the passport or travel document or any other person on his behalf;

(c) if the passport authority deems it necessary so to do in the interests of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign country, or in the interests of the general public;

(d) if the holder of the passport or travel document has, at any time after the issue of the passport or travel document, been convicted by a court in India for any offence and sentenced to imprisonment for not less than two years;

(e) if proceedings in respect of an offence alleged to have been committed by the holder of the passport or travel document are pending before a criminal court in India;

(f) if any of the conditions of the passport or travel document has been contravened;

(g) if the holder of the passport or travel document has failed to comply with a notice under sub-section (1) requiring him to deliver up the same;

(h) if it is brought to the notice of the passport authority that a warrant or summons for the appearance, or a warrant for the arrest, of the holder of the passport or travel document has been issued by a court under any law for the time being in force or if an order prohibiting the departure from India of the holder of the passport or other travel document has been made by any such court and the passport authority is satisfied that a warrant or summons has been so issued or an order has been so made.

(4) The passport authority may also revoke a passport or travel document on the application of the holder thereof.

(5) Where the passport authority makes an order varying or cancelling the endorsements on, or varying the conditions of, a passport or travel document under sub-section (1) or an order impounding or revoking a passport under sub-section (3), it shall record in writing a brief statement of the reasons for making such order and furnish to the holder of the passport or travel document on demand a copy of the same unless in any case, the passport authority is of the opinion that it will not be in the interests of the sovereignty

and integrity of India, the security of India, friendly relations of India with any foreign country or in the interests of the general public to furnish such a copy.

(6) The authority to whom the passport authority is subordinate may, by order in writing, impound or cause to be impounded or revoke a passport or travel document on any ground on which it may be impounded or revoked by the passport authority and the foregoing provisions of this section shall, as far as may be, apply in relation to the impounding or revocation of a passport or travel document by such authority.

(7) A court convicting the holder of a passport or travel document of any offence under this Act or the rules made thereunder may also revoke the passport or travel document:

Provided that if the conviction is set aside on appeal or otherwise the revocation shall become void.

(8) An order of revocation under sub-section (7) may also be made by an appellate court or by the High Court when exercising its powers of revision.

(9) On the revocation of a passport or travel document under this section the holder thereof shall, without delay, surrender the passport or travel document, if the same has not already been impounded, to the authority by whom it has been revoked or to such other authority as may be specified in this behalf in the order of revocation.

11. (1) Any person aggrieved by an order of the passport authority under clause (b) or clause (c) of sub-section (2) of section 5 or clause (b) of the proviso to section 7 or sub-section (1), or sub-section (3) of section 10 or by an order under sub-section (6) of section 10 of the authority to whom the passport authority is subordinate, may prefer an appeal against that order to such authority (hereinafter referred to as the appellate authority) and within such period as may be prescribed: Appeals.

Provided that no appeal shall lie against any order made by the Central Government.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.

(3) The period prescribed for an appeal shall be computed in accordance with the provisions of the Limitation Act, 1963, with respect to the computation of the periods of limitation thereunder.

36 of 1963.

(4) Every appeal under this section shall be made by a petition in writing and shall be accompanied by a copy of the statement of the reasons for the order appealed against where such copy has been furnished to the appellant and by such fee (if any) not exceeding rupees twenty-five as may be prescribed.

(5) In disposing of an appeal, the appellate authority shall follow such procedure as may be prescribed:

Provided that no appeal shall be disposed of unless the appellant has been given a reasonable opportunity of representing his case.

(6) Every order of the appellate authority confirming, modifying or reversing the order appealed against shall be final.

Offences
and penal-
ties.

12. (1) Whoever—

(a) contravenes the provisions of section 3; or

(b) knowingly furnishes any false information or suppresses any material information with a view to obtaining a passport or travel document under this Act or without lawful authority alters or attempts to alter or causes to alter the entries made in a passport or travel document; or

(c) fails to produce for inspection his passport or travel document (whether issued under this Act or not) when called upon to do so by the prescribed authority; or

(d) knowingly uses a passport or travel document issued to another person; or

(e) knowingly allows another person to use a passport or travel document issued to him,

shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees or with both.

(2) Whoever abets any offence punishable under sub-section (1) shall, if the act abetted is committed in consequence of the abetment, be punishable with the punishment provided in that sub-section for that offence.

(3) Whoever contravenes any condition of a passport or travel document or any provision of this Act or any rule made thereunder for which no punishment is provided elsewhere in this Act shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

(4) Whoever, having been convicted of an offence under this Act, is again convicted of an offence under this Act shall be punishable with double the penalty provided for the latter offence.

13. (1) Any officer of customs empowered by a general or special order of the Central Government in this behalf and any officer of police not below the rank of a sub-inspector may arrest without warrant any person against whom a reasonable suspicion exists that he has committed any offence punishable under section 12 and shall, as soon as may be, inform him of the grounds for such arrest.

5 of 1898.

(2) Every officer making an arrest under this section shall, without unnecessary delay, take or send the person arrested before a magistrate having jurisdiction in the case or to the officer in charge of the nearest police station and the provisions of section 61 of the Code of Criminal Procedure, 1898, shall, so far as may be, apply in the case of any such arrest.

14. (1) Any officer of customs empowered by a general or special order of the Central Government in this behalf and any officer of police not below the rank of a sub-inspector may search any place and seize any passport or travel document from any person against whom a reasonable suspicion exists that he has committed any offence punishable under section 12.

Power of
search and
seizure.

5 of 1898.

(2) The provisions of the Code of Criminal Procedure, 1898, relating to searches and seizures shall, so far as may be, apply to searches and seizures under this section.

15. No prosecution shall be instituted against any person in respect of any offence under this Act without the previous sanction of the Central Government or such officer or authority as may be authorized by that Government by order in writing in this behalf.

Previous
sanction
of Central
Govern-
ment
neces-
sary.

Protection
of action
taken in
good faith.

16. No suit, prosecution or other legal proceeding shall lie against the Government or any officer or authority for anything which is in good faith done or intended to be done under this Act.

Passports
and travel
documents
to be pro-
perty of
Central
Govern-
ment.

17. A passport or travel document issued under this Act shall at all times remain the property of the Central Government.

Passports,
etc., not
to be issu-
ed to per-
sons who
cannot
emigrate
under
Act 7 of
1922.

18. Notwithstanding anything contained in this Act, where a person has applied for a passport or an endorsement on his passport, for visiting a foreign country for the purpose of emigrating to such country, the passport shall not be issued to such person or, as the case may be, the endorsement shall not be made on his passport, for visiting such country if he is not permitted to emigrate, or is prohibited from emigrating, to such country by or under the provisions of the Emigration Act, 1922.

Explanation.—For the purposes of this section, “emigrate” and “emigration” shall have the meanings assigned to those expressions under clause (c) of sub-section (1) of section 2 of the Emigration Act, 1922.

7 of 1922.

Passports
and travel
documents
to be in-
valid for
travel to
certain
countries.

19. Upon the issue of a notification by the Central Government that a foreign country is—

(a) a country which is committing external aggression against India; or

(b) a country assisting the country committing external aggression against India; or

(c) a country where armed hostilities are in progress; or

(d) a country to which travel must be restricted in the public interest because such travel would seriously impair the conduct of foreign affairs of the Government of India,

a passport or travel document for travel through or visiting such country shall cease to be valid for such travel or visit unless in any case a special endorsement in that behalf is made in the prescribed form by the prescribed authority.

Issue of
passports
and travel
documents

20. Notwithstanding anything contained in the foregoing provisions relating to issue of a passport or travel document, the Central Government may issue, or cause to be issued, a passport

or travel document to a person who is not a citizen of India if that Government is of the opinion that it is necessary so to do in the public interest.

to persons who are not citizens of India.

21. The Central Government may, by notification in the Official Gazette, direct that any power or function which may be exercised or performed by it under this Act other than the power under clause (d) of sub-section (1) of section 6 or the power under clause (i) of sub-section (2) of that section or the power under section 24, may, in relation to such matters and subject to such conditions, if any, as it may specify in the notification, be exercised or performed—

Power to delegate.

(a) by such officer or authority subordinate to the Central Government; or

(b) by any State Government or by any officer or authority subordinate to such Government; or

(c) in any foreign country in which there is no diplomatic mission of India, by such foreign Consular Officer;

as may be specified in the notification.

22. Where the Central Government is of the opinion that it is necessary or expedient in the public interest so to do, it may, by notification in the Official Gazette and subject to such conditions, if any, as it may specify in the notification,—

Power to exempt.

(a) exempt any person or class of persons from the operation of all or any of the provisions of this Act or the rules made thereunder; and

(b) as often as may be, cancel any such notification and again subject, by a like notification, the person or class of persons to the operation of such provisions.

23. The provisions of this Act shall be in addition to and not in derogation of the provisions of the Passport (Entry into India) Act, 1920, the Emigration Act, 1922, the Registration of Foreigners Act, 1939, the Foreigners Act, 1946, the Foreign Exchange Regulation Act, 1947, the Trading with the Enemy (Continuance of Emergency Provisions) Act, 1947, the Foreigners Law (Application and Amendment) Act, 1962, and other enactments relating to foreigners and foreign exchange.

Act to be in addition to certain enactments.

34 of 1920.
7 of 1922.
16 of 1939.
31 of 1946.
7 of 1947.
16 of 1947.
42 of 1962.

24. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the appointment, jurisdiction, control and functions of passport authorities;

(b) the classes of persons to whom passports and travel documents referred to respectively in sub-section (1) and sub-section (2) of section 4 may be issued;

(c) the form and particulars of application for the issue or renewal of a passport or travel document or for endorsement on a passport or travel document and where the application is for the renewal, the time within which it shall be made;

(d) the period for which passports and travel documents shall continue in force;

(e) the form in which and the conditions subject to which the different classes of passports and travel documents may be issued, renewed or varied;

(f) the fees payable in respect of any application for the issue or renewal of a passport or travel document or for varying any endorsement or making a fresh endorsement on a passport or a travel document and the fees payable in respect of any appeal under this Act;

(g) the appointment of appellate authorities under sub-section (1) of section 11, the jurisdiction of, and the procedure which may be followed by, such appellate authorities;

(h) the services (including the issue of a duplicate passport or travel document in lieu of a passport or travel document lost, damaged or destroyed) which may be rendered in relation to a passport or travel document and the fees therefor;

(i) any other matter which is to be or may be prescribed or in respect of which this Act makes no provision or makes insufficient provision and provision is, in opinion of the Central Government, necessary for the proper implementation of the Act.

(3) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of Parliament while

it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

25. In the Indian Passport Act, 1920, in sub-section (1) of section 1, for the words and figures "the Indian Passport Act, 1920", the words, brackets and figures "the Passport (Entry into India) Act, 1920" shall be substituted. Change of short title of Act 34 of 1920.

4 of 1967.

26. (1) Every passport and every travel document issued by or under the authority of the Central Government before the commencement of the Passports Ordinance, 1967 and in force immediately before such commencement shall be deemed to have been issued under this Act and shall, subject to the provisions of this Act, continue in force— Saving as to certain passports and applications.

(a) for the unexpired portion of the period for which such passport or travel document had been issued; or

(b) for a period of five years from such commencement;

whichever is shorter.

(2) All applications for the issue or renewal of, the making of an endorsement on, or the performance of any service in relation to, a passport or travel document made to the Central Government or to any officer or authority appointed by that Government in that behalf before the 5th May, 1967 and pending before the commencement of this Act shall, after such commencement, be disposed of in accordance with the provisions of this Act.

4 of 1967.

27. (1) The Passports Ordinance, 1967 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken or purporting to have been done or taken under the said Ordinance shall be deemed to have been done or taken under this Act as if this Act had commenced on the 5th day of May, 1967. Repeal and saving.

STATEMENT OF OBJECTS AND REASONS

Prior to the decision of the Supreme Court in *Satwant Singh Sawhney vs. the Union of India* (W.P. No. 236 of 1966), passports were issued by the Government in exercise of its executive power to conduct foreign relations. A passport was considered to be essentially a political document, issued in the name of the President of India to the Governments of, or authorities in foreign countries requesting them to afford facilities of safe travel to the holder in their territories and to provide him necessary assistance and protection. The presence abroad of a passport holder and the manner in which he conducts himself while there, the treatment meted out to him by foreign Governments or authorities, necessarily bring into play the relations between India and the foreign countries concerned. Government might have to protect his interests abroad *vis-a-vis* a foreign state and might also have to arrange for his repatriation to India at public expense, should he become destitute or a public charge. For all these and other reasons such as diplomatic and consular practice and usage and international practice and usage, Government had claimed an absolute discretion in the matter of issuance of passports, though it had taken adequate precautions by issuing suitable administrative instructions to ensure that the power was not used in an arbitrary manner. The majority decision of the Supreme Court in the case afore-mentioned denied the Government any such absolute power though the minority upheld Government's view point. The majority held *inter alia* that the right to travel abroad is a part of a person's personal liberty of which he could not be deprived except according to procedure established by law in terms of article 21 of the Constitution and as there was no law establishing such procedure, the Government had no right to refuse a passport to any person who might have applied for the same. The majority also held that Government's claim for an absolute discretion in the matter of issuance of passports would also be violative of article 14 of the Constitution. It thus became urgently necessary to regulate the issuance of passports and travel documents by law. As Parliament was not in session, an Ordinance, namely, the Passports Ordinance, 1967, was promulgated for the purpose.

2. The Ordinance prohibited the departure from India of any person without a passport or travel document. It provided for the machinery

necessary for the issuance of passports. It also provided for the procedure for obtaining passports and travel documents and clearly defined the grounds on which passports or travel documents or endorsements on passports or travel documents for visit to any foreign country might be refused. The Ordinance also made provisions for impounding or revocation of passports or travel documents and clearly defined the grounds for such impounding or revocation. Suitable provisions were incorporated in the Ordinance as to appeals against orders of refusal of passports or endorsements, revocation or impounding of passports, etc.

3. The present Bill seeks to replace the Ordinance by an Act of Parliament. The Notes on clauses explain in detail the various provisions of the Bill.

NEW DELHI;
The 23rd May, 1967.

M. C. CHAGLA.

Notes on Clauses

Clause 2.—The definition of “departure” is modelled, subject to drafting changes, on the definition of the expression “entry” in the Indian Passport Act, 1920—(hereinafter referred to as the 1920 Act). [It is proposed to change the title of this Act (*vide* clause 25) as the Passport (Entry into India) Act, 1920.]

Clause 3.—This clause provides that no person shall depart from, or attempt to depart from, India unless he holds in this behalf a valid passport or travel document. As the clause is intended to apply to all persons, it is necessary to recognize for the purpose of the clause passports and travel documents issued by or under the authority of a foreign government. The 1920 Act which regulates entry into India and provides for the conditions which have to be satisfied in respect of foreign passports does not deal with foreign travel documents. Accordingly, clause (a) of the *Explanation* to this clause makes it clear that for the purposes of the clause, “passport” includes a foreign passport which satisfies the conditions prescribed under the 1920 Act in respect of the class of passports to which it belongs. Clause (b) of the *Explanation* provides for recognition of foreign travel document and for prescribing the conditions which such travel documents should satisfy.

Clause 4.—This clause provides for the classes of passports and travel documents which may be issued under the proposed legislation and seeks to empower the Central Government to prescribe, in consonance with the usage and practice followed by it in this behalf, the classes of persons to whom such passports and travel documents may be issued.

Clause 5.—This clause deals with applications for the issue of passports and travel documents, endorsements on passports or travel documents and the authorities to whom such applications may be made, and the orders which may be passed on such applications. In particular, it provides that where such authority refuses to issue a passport or travel document or refuses to make an endorsement on a passport or travel document for visiting a foreign country, it shall record in writing a brief statement of its reasons for making such an order and furnish to the applicant on demand a copy of the same, unless in any case such authority is of the opinion that it will not be in the interests of sovereignty and integrity of India, the security of India, the friendly relations of India with any foreign country or in the interests of the general public to furnish such a copy.

Clause 6—

Sub-clause (1) of this clause enumerates the grounds on which an endorsement on a passport or travel document for visiting any foreign country shall be refused

Sub-clause (2) of this clause enumerates the grounds on which a passport or travel document for visiting any foreign country shall be refused. In this connection, it may be mentioned that under the corresponding provision of the Passports Ordinance 1967, a passport or travel document could also be refused on the ground that the applicant had no adequate means of supporting himself outside India consistently with his dignity and self-respect as a citizen of India. This ground has not been included in the Bill as it may be difficult to apply such a ground in advance and may consequently involve delay in the issuance of **passports**.

Clause 7—This clause deals with the duration of passports and travel documents. The period for which different classes or sub-classes of passports may be issued is left to be prescribed by rules. Power is also taken to issue a passport or travel document for a shorter period than the prescribed period in case the applicant so desires or the passport authority considers it necessary so to do for reasons to be communicated in writing to the applicant.

Clause 8—This clause provides that a passport shall, unless the passport authority for reasons to be recorded in writing otherwise determines in any particular case, be renewable for the same period for which it was originally issued and shall be so renewable from time to time. It makes all the provisions of the legislation applicable for the renewal of a passport in the same manner as they apply to the issue of a passport. Thus, for example, the grounds for refusal of a passport will apply with equal force in the case of refusal for renewal of a passport. Likewise, the procedure to be followed in the case of refusal of a passport has to be followed in the case of refusal of an application for renewal also. So also, an appeal from an order of refusal to renew a passport would lie in the same manner as an appeal from an order of refusal to issue a passport would lie.

So far as travel documents are concerned, no similar right of renewal is provided for as a travel document is generally issued for a specific purpose or for a specific journey. As such, the matters relating to the renewal of travel documents are left to be regulated by rules.

Clause 9—By this clause, power is sought to be taken to prescribe the conditions subject to which and the forms in which different

classes and sub-classes of passports and travel documents may be issued. In an exceptional case, it may become necessary to impose special conditions in addition to the prescribed ones. For this purpose, the clause seeks to enable a passport authority to impose such special conditions with the previous approval of the Central Government.

Clause 10.—

Sub-clause (1) of this clause seeks to authorize the passport authority to vary or cancel an endorsement on a passport or travel document having regard to the provisions embodied in sub-clause (1) of clause 6 or a notification under clause 19, or with the previous approval of the Central Government, to vary or cancel the conditions imposed at the time of issue or renewal of a passport or travel document.

Sub-clause (3) provides for impounding and revocation of passports or travel documents and clearly enumerates the grounds on which a passport or travel document may be impounded.

Sub-clause (4) provides for revocation of a passport or travel document on the application of the holder thereof.

Sub-clause (5) provides that where the passport authority makes an order under sub-clause (1) or sub-clause (3), it shall record in writing a brief statement of the reasons for making such order and furnish to the holder of the passport or travel document a copy of the same, unless such authority is of the opinion that it will not be in the interests of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign country or in the interest of the general public to furnish such a copy.

Sub-clause (6) authorises an authority superior to the passport authority to exercise the powers of the passport authority under the clause in regard to impounding or revocation of passports or travel documents.

The other sub-clauses of the clause are self-explanatory.

Clause 11.—This clause seeks to provide for appeals from orders of passport authorities and of authorities to whom the passport authorities are subordinate. In this connection, it is considered desirable to provide expressly that no appeal shall lie from the orders of the Central Government.

Clause 12.—This clause seeks to provide for the punishment of offences under the proposed legislation.

Clauses 13 and 14.—These clauses embody the usual provisions relating to power of arrest; searches and seizures in relation to investigation of offences.

Clause 15.—This clause seeks to provide that no prosecution shall be instituted in respect of any offence under the legislation without the previous sanction of the Central Government or an officer or authority authorized by the Central Government.

Clause 16.—This clause contains the usual provision as to protection of officers, etc., for anything done under the legislation in good faith.

Clause 17.—This clause provides that a passport or travel document shall, at all times, remain the property of the Central Government.

Clause 18.—This clause provides that an application for a passport or travel document, or for an endorsement on a passport or travel document for visiting a foreign country made by a person for the purpose of emigrating to such country shall be rejected if such person is not permitted to emigrate, or is prohibited from emigrating, to such country by or under the provisions of the Emigration Act, 1922.

Clause 19.—It is difficult to ensure adequate protection to holders of Indian passports and travel documents in countries committing external aggression against India or in countries in league with such countries or in countries where armed hostilities are in progress or in countries with which India does not have good relations. This clause therefore authorises the Central Government to notify such countries and provides that such notification would have the effect of rendering a passport or travel document invalid for travel through or visit to such countries.

Clause 20.—Under this clause, a passport can be refused on the ground that the applicant is not a citizen of India. But, in special cases, having regard to international convention and usage, it may become necessary for the Government to issue a passport or a travel document to a person who is not a citizen of India. This clause seeks to give the necessary powers to the Central Government in this behalf.

Clause 21.—This clause contains the usual provision as to delegation of powers of the Central Government to its officers or to a State Government or to officers or authorities subordinate to a State Government. As India does not have diplomatic missions and posts

in some countries, it would be necessary to delegate some of its functions under the legislation to foreign Consular officers. The clause makes provision for this also.

Clause 22.—This clause authorises the Central Government to exempt any person or class of persons from the operation of all or any of the provisions of the legislation or the rules made thereunder. Such power will be necessary for implementing international conventions to which India is a party or for conforming to international practice and usage.

Clause 23.—This clause is intended to make it clear that the provisions of the legislation are in addition to and not in derogation of the enactments mentioned in the clause.

Clause 24.—This clause deals with the Central Government's power to make rules.

Clause 25.—The Indian Passport Act, 1920 regulates the entry of persons into India and does not provide for issuance of passports and travel documents. The title of that Act is somewhat misleading. This clause, therefore, seeks to make the necessary change in the title of that Act to bring out clearly the scope of that Act.

Clause 26.—This clause makes the necessary saving provisions as to passports and travel documents issued before the commencement of the Passports Ordinance, 1967 and also as to applications for or in relation to passports or travel documents made before such commencement.

Clause 27.—This clause provides for the repeal of the Passports Ordinance, 1967 and contains the usual saving provision as to such repeal.

FINANCIAL MEMORANDUM

The Bill provides for the prescribing of passport authorities [vide clause 2(c)] and of appellate authorities [vide clause 11(1)]. There is already in existence a machinery in India and in Indian Missions and Posts abroad for the work relating to the issue of passports and travel documents. The impact of the Bill on the work-load in the various units scattered all over India and outside cannot be assessed with exactitude but it would see that the Bill is not likely to result in any substantial increase in the existing work-load. Existing officers can be prescribed as passport authorities under the proposed legislation. Indeed, they have already been so prescribed under the Passports Ordinance, 1967. As the obtaining of a passport would be a matter of statutory right subject only to the provisions of the proposed legislation, in course of time, there may be an increase in the applications for passports and it may, then, become necessary to appoint some more officers as passport authorities. As the need for the appointment of such additional officers is of a contingent nature, it is not possible at this stage to give an estimate of the expenditure likely to be involved from the Consolidated Fund of India on this account.

2. However, the work relating to appeals has to be entrusted to an independent authority. It may, therefore, be necessary to appoint a separate officer of suitable rank for the purpose. It is estimated that additional recurring expenditure of approximately Rs. 33,000 per year may be involved out of the Consolidated Fund of India for this purpose.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 24 of the Bill empowers the Central Government to make rules for carrying out the purposes of the proposed legislation and the various matters in respect of which such rules may be made have been specified in sub-clause (2) of that clause. They relate, *inter alia*, to the appointment, jurisdiction, control and functions of passport authorities; the classes of persons to whom various classes of passports and travel documents may be issued; the form and particulars of application for the issue or renewal of a passport or travel document or for endorsement on a passport or a travel document and in cases of renewal, the time within which the application for the same shall be made; the period for which passports and travel documents may be issued; the form in which and the conditions subject to which different classes of passports and travel documents may be issued, renewed or varied; the fees payable in respect of applications under the Act; the appointment of appellate authorities, the jurisdiction and the procedure which may be followed by such authorities; the services which may be rendered in respect of a passport or travel document and the fees therefor. These are matters either of procedure or of administrative detail which can best be provided for by rules. The delegation of legislative power is, thus, of a normal character.

B. N. BANERJEE.

Secretary.